



Amendment No. 4  
to  
Contract No. 5600 NS170000007  
for  
Licenses, Software Maintenance, and Support  
between  
Open Text Corporation  
and the  
City of Austin

1.0 The City hereby enacts the following changes for the subject contract:

Incorporation of attached quote for Capture Center Maintenance

Administrative increase of \$42,984.81

Incorporation of the following statement:

*OpenText Support and Maintenance Services are provided in accordance with and governed by the Agreement and the terms of the OpenText Software Maintenance Program Handbook available at [www.opentext.com/agreements](http://www.opentext.com/agreements) ("SMPH"). In the event of any conflict between the Agreement and the SMPH, the terms of the SMPH shall control. OpenText acknowledges the City of Austin is exempt from indemnification obligations therein, is exempt from paying any taxes mentioned therein, and that the Agreement is governed by the laws of the State of Texas with exclusive jurisdiction by the state or federal courts in the State of Texas for any claim relating to the Agreement. OpenText acknowledges that the contract period for this contract expires on December 27, 2021, and that this contract period may not be automatically renewed by either party.*

2.0 The total contract amount is increased by \$42,984.81 by this administrative increase. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 12/28/2016 – 12/27/2017		
	\$229,368.00	\$229,368.00
Amendment No. 1: Option 1 – Extension 12/28/2017 – 12/27/2018		
	\$199,213.00	\$428,581.00
Amendment No. 2: Option 2 – Extension 12/28/2018 – 12/27/2019		
	\$207,299.00	\$635,880.00
Amendment No. 3: Option 2 – Extension 12/28/2019 – 12/27/2020		
	\$215,385.00	\$851,265.00
Amendment No. 4: Capture Center maintenance, Administrative Increase		
	\$42,984.81	<del>\$721,265.00</del> \$894,249.81 \$764,249.81

JTK.  
JTK

3.0 MBE/WBE goals do not apply to this contract.

4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: Stacey Dobbie Dec 24, 2019

Printed Name: Stacey Dobbie  
Authorized Representative

Open Text Corporation  
275 Frank Tompa Dr  
Waterloo, ON  
N2L 6R2

Sign/Date: [Signature] 12/26/19  
Printed Name: Gil Zilkha  
Authorized Representative

City of Austin  
Purchasing Office  
124 W. 8<sup>th</sup> Street, Ste. 310  
Austin, Texas 78701

## Renewal Notice

**Bill To:**  
Stacey Wuest  
City of Austin - 10214533  
625 East 10th Suite 700  
Austin, TX, 78701-2302  
United States

Date: 12/13/19  
**Reference Number:** RC463444  
Contract Number: 42073  
Maintenance Term Start Date: 1/1/20  
Maintenance Term Expiration Date: 12/31/20  
Quote Expires: 12/31/19  
Payment Terms: Net 30  
Previous PO Number: P1131

**Ship To:**  
City of Austin - 10379592  
625 E 10th Street  
Austin, TX, 78701-2612  
United States

**End User Information:**  
City of Austin - EU0028839  
625 E 10th Street  
Austin, TX, 78701-2612  
United States

QTY	PRODUCT	AMOUNT
2,000,000	Capture Center Unlimited Field Extraction - Max. Pages/ Year Maintenance 01/01/20 to 12/31/20 Unique #: OCC11442 Unique Name: OCC11442	1000023242 (S-DTOCCULF-KIT_M)
1	Capture Center Protect Anytime 01/01/20 to 12/31/20 Unique #: OCC11442 Unique Name: OCC11442	1000022874 (S-DT-24X7RESTORE)

Subtotal	39,708.83 USD
Tax	3,275.98 USD
<b>Total</b>	<b>42,984.81 USD</b>
Total as of 1/1/20	44,274.35 USD

Taxes are subject to change

### \*Important Reminder

Renewals on or after the term start date are considered late; a late payment charge will apply and is included herein for reference. Pricing is valid through the quote expiration date, after which time a new quote will be provided, and additional fees assessed.

### Send Payments To:

OpenText Inc.  
24685 Network Place  
Chicago, IL  
60673-1246  
US

### Banking Information:

JPMORGAN CHASE BANK, N.A.  
Bank Account: [REDACTED]  
Swift: [REDACTED]  
PlusGiro: [REDACTED]



**Pay Online by Credit Card or Upload a Purchase Order:**

<https://support.opentext.com/rr-RC463444-3970883>



**Direct All Inquiries to:**

Val Lichty @ (519) 888-7111 x 83016 or supportrenewals@opentext.com or Fax: n/a  
Please reference #RC463444

By accepting this Renewal Notice you authorize OpenText to invoice you for this support renewal. Should you wish to accept this Renewal Notice through your signature, please sign and email this Renewal Notice to supportrenewals@opentext.com or fax to n/a

This Renewal Notice can be accepted in writing (by email or signature) or by issuing a purchase order for the amount stated in the Renewal Notice or paying the amounts specified. By accepting the Renewal Notice on behalf of the End User identified above ("Customer"), you are entering into a binding agreement for the provision of support services on the terms and fees set out herein. You (i) confirm that you have read, understood and agree to the terms and conditions accompanying this Renewal Notice; (ii) warrant that you have the authority to bind the Customer; and (iii) warrant that no further steps, approvals or authorisations are required to procure or pay for support services. In the event you require a purchase order or any other document to be issued in order to renew the support services, you acknowledge and agree that any preprinted terms contained in or accompanying such purchase order shall have no legal effect even if such purchase order is later in time or OpenText acknowledges or issues an invoice to Customer after receiving the purchase order.

Authorized Signature:

Bill To Address (if different from above):

Name (printed):

Gil Zilkha

Date:

Email Address:

Gil.Zilkha@austintexas.gov

Title:

## Terms and Conditions

- OpenText agrees to supply, and Customer agrees to buy, support services specified in the Renewal Notice in accordance with the terms and conditions set out in the applicable Software Maintenance Program Handbook available at [www.opentext.com/agreements](http://www.opentext.com/agreements) ("SMPH") and in either: (i) the Software Support Terms and Conditions for the country of the OpenText entity named in this Renewal Notice, available at [www.opentext.com/agreements](http://www.opentext.com/agreements), or (ii) a signed agreement between you and OpenText covering the provision of support services. Any preprinted terms contained in or accompanying such purchase order shall have no legal effect even if such purchase order is later in time or OpenText acknowledges or issues an invoice to Customer after receiving the purchase order.
- All support software must be licensed by Customer in accordance with the applicable software license agreement signed by the parties, or in the absence of such signed agreement, under the terms of the applicable OpenText End User License Agreement ("EULA") in force at the time of the original software license purchase for the country of the OpenText entity from which the support software was purchased. The current EULA is available at [www.opentext.com/agreements](http://www.opentext.com/agreements).
- OpenText will issue an invoice to Customer and payment is due on or before the date specified on the invoice. A failure to pay the invoice on the due date may entitle OpenText to suspend or terminate the support services.
- If you have purchased additional support packages, OpenText customer support services are provided in accordance with the terms of and governed by the applicable OpenText support handbook applicable to the relevant support program subscription sent to you with this quote or available on [www.opentext.com/agreements](http://www.opentext.com/agreements).
- **Hardware Service Contract:** Where your Renewal Notice includes a hardware service contract, you understand that a failure to provide a Purchase Order due date (if applicable), the hardware manufacturer has the right to conduct an on-site inspection (at your expense) of your equipment before acceptance

- **Billing/Invoice Address:**

If different from quote, please complete the following:

Bill To Company: \_\_\_\_\_

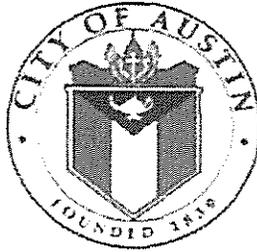
Bill To Contact: \_\_\_\_\_

Bill To Address: \_\_\_\_\_

- **Bill To Arrangements:** If you are a third party payer renewing Open Text support on behalf of an Open Text software End User, then you hereby confirm that, by submitting this Renewal Notice, the End User is purchasing support from OpenText on the terms of the applicable SMPH and that the End User constitutes the “customer” under the SMPH located at [www.opentext.com/agreements](http://www.opentext.com/agreements). You acknowledge that payment is on behalf of the End User and that you have no rights to the support services and any failure to make payment to OpenText of any amount due shall be deemed a failure by End User to pay such amount. OpenText may require that you provide confirmation of End User’s acceptance of the terms of the SMPH. OpenText may contact the End User directly. You shall not make any representations, warranties, or guarantees regarding OpenText support services or products and you agree to indemnify OpenText against any and all claims arising as a result of a breach of the foregoing obligations.



"Go Green" To align with OpenText’s corporate efficiency goals, OpenText will deliver a PDF copy of your invoice to the same email address this Support Renewal is being delivered to, unless you specifically request otherwise. If you would prefer an alternate delivery method or that the invoice be sent to an alternate email address, please contact [einvoice@opentext.com](mailto:einvoice@opentext.com).



Amendment No. 3  
to  
Contract No. MA 5600 NS170000007  
for  
Licenses, Software Maintenance, and Support to the Enterprise Document and Image Management System  
between  
Open Text Corporation  
and the  
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective December 28, 2019 to December 27, 2020. One option will remain.
- 2.0 The total contract amount is increased by \$215,385 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 12/28/2016 – 12/27/2017	\$229,368.00	\$229,368.00
Amendment No. 1: Option 1 – Extension 12/28/2017 – 12/27/2018	\$199,213.00	\$428,581.00
Amendment No. 2: Option 2 – Extension 12/28/2018 – 12/27/2019	\$207,299.00	<del>\$635,880.00</del>
Amendment No. 3: Option 3 – Extension 12/28/2019 – 12/27/2020	\$215,385.00	<del>\$721,265.00</del>

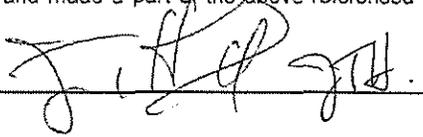
*JTH*  
\$635,880\*  
\$851,265\*  
*JTH*

- 3.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 4.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date:  Dec 20, 2019

Printed Name: Alan MacDonald  
Authorized Representative  
Open Text Corporation  
3671 Ridge Mill Drive  
Hilliard, Ohio 43026  
[gtsivara@opentext.com](mailto:gtsivara@opentext.com)  
905-762-6455

Sign/Date: 

Jim Howard  
Procurement Manager  
Austin Energy  
128 West 8<sup>th</sup> Street, Suite 310  
Austin, Texas 78701



Amendment No. 3  
to  
Contract No. MA 5600 NS17000007  
for  
Licenses, Software Maintenance, and Support to the Enterprise Document and Image Management System  
between  
Open Text Corporation  
and the  
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective December 28, 2019 to December 27, 2020. One option will remain.
- 2.0 The total contract amount is increased by \$215,385 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 12/28/2016 – 12/27/2017	\$229,368.00	\$229,368.00
Amendment No. 1: Option 1 – Extension 12/28/2017 – 12/27/2018	\$199,213.00	\$428,581.00
Amendment No. 2: Option 2 – Extension 12/28/2018 – 12/27/2019	\$207,299.00	\$535,880.00
Amendment No. 3: Option 3 – Extension 12/28/2019 – 12/27/2020	\$215,385.00	\$721,265.00

- 3.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 4.0 All other terms and conditions remain the same.

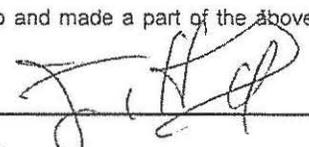
BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date:  Dec 20, 2019

Printed Name: Alan MacDonald

Authorized Representative

Open Text Corporation  
3671 Ridge Mill Drive  
Hilliard, Ohio 43026  
[gtsivara@opentext.com](mailto:gtsivara@opentext.com)  
905-762-6455

Sign/Date: 

Jim Howard  
Procurement Manager

Austin Energy  
128 West 8<sup>th</sup> Street, Suite 310  
Austin, Texas 78701



Amendment No. 2  
to  
Contract No. 5600 NS170000007  
for  
Licenses, Software Maintenance, and Support to the Enterprise Document and Image Management System  
between  
Open Text Corporation  
and the  
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be December 28, 2018, through December 27, 2019. Two (12 month) options will remain.
- 2.0 The total contract amount is increased by \$207,299.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 12/28/2016 – 12/27/2017	\$229,368.00	\$229,368.00
Amendment No. 1: Option 1 – Extension 12/28/2017 – 12/27/2018	\$199,213.00	\$428,581.00
Amendment No. 2: Option 2 – Extension 12/28/2018 – 12/27/2019	\$207,299.00	\$635,880.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: DocuSigned by:  
Todd Elliott  
 Printed Name: Todd Elliott 12/6/2018  
 Authorized Representative

Todd Elliott  
 Open Text corporation  
 3671 Ridge mill Drive  
 Hilliard, OH 43026  
 todde@opentext.com

Sign/Date: Bartley Tyler 12/6/18  
 Printed Name: Bartley Tyler  
 Authorized Representative

Sign/Date: J. Howard 12/6/18  
 Printed Name: JAMES T. HOWARD

City of Austin  
 Purchasing Office  
 124 W. 8<sup>th</sup> Street, Ste. 310  
 Austin, Texas 78701

## Master Agreement (MA) Renewal Checklist

<b>Vendor / Code</b>	OPEN TEXT CORPORATION / HUM7010915	<b>Buyer</b>	Gil Zilkha
<b>Completed By</b>	Bartley Tyler	<b>MA Number</b>	5600 NS170000007
<b>Date</b>	12/12/2018	<b>CoSTS Project #</b>	64727

<b>RCA Date</b>	11/03/2016	<b>Agenda Item No.</b>	32

<b>Amendment</b>	<input checked="" type="checkbox"/> BT	<b>SAM</b>	<input checked="" type="checkbox"/> BT
<b>Insurance</b>	<input checked="" type="checkbox"/> BT	<b>Bonds</b>	<input type="checkbox"/> BT <input checked="" type="checkbox"/> N/A
Additional Insured?	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	<b>Authorization Emails</b>	<input checked="" type="checkbox"/>
30 – day NOC Req?	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	<b>Licenses / Certificates</b>	<input type="checkbox"/> BT <input checked="" type="checkbox"/> N/A
Waiver of Subrogation Req?	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N <input type="checkbox"/> N/A	<b>Goals ( MBE / WBE / DBE )</b>	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N

Insurance Review	Req?	AM BEST (B+VII min)	Exp. Date	NAIC/ Insurer
General Liability	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	A++XV		
Auto Liability	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	A++XV		
Worker Comp	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	A++XV	07/01/2019	20346/Pacific Indemnity Comoanv
Professional Liability	<input type="checkbox"/> Y <input type="checkbox"/> N			
Umbrella \$MM	<input type="checkbox"/> Y <input type="checkbox"/> N	A++XV		

Escalation Clause	Y/N	Commodities Checked? <input type="checkbox"/>	EPA DATA & CALCULATION Index _____		
			(Most Current Index – Index on Solicitation Close Date) / Index on Solicitation Close Date * 100 = % Change		
Economic Price Adjustment Provision?	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	<b>Date Price Request</b>	Option Amount (A)	\$207,299.00	
Increase Requested?	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N		Price adjustment rate (B)		From EPA
Decrease Requested?	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N		Reported Cost Avoidance (C)		(A) X (B)

Remaining Options	2
AFS2 \$'s (for projects excuted prior to Oct 2006)	\$0.00
AIMS Amount (new NTE) = Contract Amount – AFS2 amount)	\$635,880.00

<b>Notes</b>

Reviewed By / Date		<b>EDIMS</b>	<input type="checkbox"/>	<b>AIMS</b>	<input type="checkbox"/>
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## Thorpe, Lynda

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**From:** Thorpe, Lynda  
**Sent:** Monday, July 10, 2017 10:20 AM  
**To:** Howard, Jim; Xoomsai, Sai [Purcell]; Karimi, Kamran  
**Cc:** Williams, Sam  
**Subject:** OPEN TEXT CORPORATION LICENSES, SOFTWARE MAINTENANCE/SUPPORT TO THE EDIMS  
**Attachments:** OPEN TEXT CORPORATION Memo.pdf

Good morning

Please see memo, I will add a copy to the contract file. Sam, you are copied in the event they need update to their vendor account

Thanks,  
Lynda

# OPENTEXT™

## Re: Important Announcement from OpenText

Dear Valued Customer,

At OpenText we are committed to being your leading partner to drive your digital transformation. In order to do so, we are preparing for our own digital transformation and are pleased to share that we will be taking a critical step in our journey in July 2017, when we upgrade our ERP system. You may have questions about what this means for you, and rest assured that this will not be disruptive to your business and your information is protected per OpenText standard policy to all our stakeholders. We do, however, want to prepare you for some changes that you may notice on future documents you receive from OpenText:

- The design of documents, such as renewal notices, quotes, proof of delivery for product shipments, invoices, and statements may be different.
- Your “Bill to” customer account and invoice numbers which appear on your OpenText invoices may change.
  - **Your action:** If your customer account number does change we ask that you please update the OpenText vendor information in your systems as necessary to avoid any payment delays.
- OpenText banking information may be subject to change. If applicable, a separate notification will be sent to your business directly.
- OpenText will be standardizing all item numbers/SKUs into one global format (10 digit number). There is no change to the description and delivery of the products or services that you will receive.
- As monthly statements of account (examples: balance, payment, credit information) will not be automatically generated, you will have the option to request statements for your account by sending a request to your dedicated A/R customer support representative.

### Questions & Additional Support

If you have any questions, concerns or feedback about the upcoming changes, please review our FAQ document at [www.opentext.com/ERP-FAQ](http://www.opentext.com/ERP-FAQ)

### Join us at Enterprise World 2017, July 10-13 in Toronto

Through over 200 targeted training workshops, breakouts, and customer roundtables, you'll learn how to extract full value from your existing OpenText investment. Gain actionable insight into the coming digital revolution and connect with your peers and industry leaders to discuss strategies that will lead your company to success. To check out the agenda and register today, please visit <http://www.opentext.com/campaigns/enterprise-world-2017>.

Thank you for your understanding and continued support during this important implementation for OpenText. We greatly value your business and look forward to your continued partnership.

Regards,

John Doolittle  
EVP & Chief Financial Officer  
OpenText

[www.opentext.com](http://www.opentext.com)

Unless otherwise noted, this message is confidential or privileged, and is intended for the exclusive use of the addressee. Any other person is strictly prohibited from disclosing or reproducing it. If the addressee cannot be reached or is unknown to you, please inform the sender by return mail.

OPENTEXT™

3671 Ridge Mill Drive  
Hilliard, OH  
US, 43026  
Tel.: +1-519-888-7111  
Fax: +1-519-888-0677

City of Austin  
124 W 8th St Rm 308  
Austin TX  
US 78701-2302

[www.opentext.com](http://www.opentext.com)

Unless otherwise noted, this message is confidential or privileged, and is intended for the exclusive use of the addressee. Any other person is strictly prohibited from disclosing or reproducing it. If the addressee cannot be reached or is unknown to you, please inform the sender by return mail.



Amendment No. 2  
to  
Contract No. 5600 NS170000007  
for  
Licenses, Software Maintenance, and Support to the Enterprise Document and Image Management System  
between  
Open Text Corporation  
and the  
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be December 28, 2018, through December 27, 2019. Two (12 month) options will remain.
- 2.0 The total contract amount is increased by \$207,299.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 12/28/2016 – 12/27/2017	\$229,368.00	\$229,368.00
Amendment No. 1: Option 1 – Extension 12/28/2017 – 12/27/2018	\$199,213.00	\$428,581.00
Amendment No. 2: Option 2 – Extension 12/28/2018 – 12/27/2019	\$207,299.00	\$635,880.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: DocuSigned by:  
Todd Elliott  
 Printed Name: Todd Elliott 12/6/2018  
 Authorized Representative

Todd Elliott  
 Open Text corporation  
 3671 Ridge mill Drive  
 Hilliard, OH 43026  
 todde@opentext.com

Sign/Date: Bartley Tyler 12/6/18  
 Printed Name: Bartley Tyler  
 Authorized Representative

Sign/Date: J. Howard 12/6/18  
 Printed Name: JAMES T. HOWARD

City of Austin  
 Purchasing Office  
 124 W. 8<sup>th</sup> Street, Ste. 310  
 Austin, Texas 78701



Amendment No. 1  
to  
Contract No. NS17000007  
for  
Licenses, Software Maintenance and Support to the Enterprise Document and Image Management System  
between  
Open Text Corporation  
and the  
City of Austin

- 1.0 The City hereby exercises the extension options for the above-referenced contract. Effective December 28, 2017 the term for the extension option will be December 28, 2017 through December 27, 2018 and there are three (3) options remaining.
- 2.0 The total contract amount is increased by \$199,213.00 for the current extension option period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 12/28/2016 – 12/27/2017	\$229,368.00	\$229,368.00
Amendment No. 1: Option 1 – Extension 12/28/2017 – 12/27/2018	\$199,213.00	\$428,581.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: George Tsivaras Nov. 16, 2017

Sign/Date: Paula Barriffe 11/30/2017

Printed Name: Holger Burkert, VP Portfolio Sales  
Authorized Representative

Paula Barriffe  
Procurement Specialist I - IT Procurement  
City of Austin  
Purchasing Office

George Tsivaras  
Open Text Corporation  
3671 Ridge Mill Drive  
Hilliard, OH 43026  
[gtsivara@opentext.com](mailto:gtsivara@opentext.com)



# City of Austin

## Purchasing Office, Financial Services Department

P.O. Box 1088, Austin, TX 78767

12/28/2016

The Austin City Council approved the execution of a contract with your company for the licenses, software maintenance and support to the Enterprise Document and Image Management System.

Responsible Department:	CTM
Department Contact Person:	Kamran Karimi
Department Contact Email:	<a href="mailto:Kamran.Karimi@austintexas.gov">Kamran.Karimi@austintexas.gov</a>
Department Contact Telephone:	512 974-2877
Contractor Name:	Open Text Corporation
Contract Period:	12 months/ 4 12-month extension options
Dollar Amount	Contract Term \$ 229,368 Option 1 \$ 199,213 Option 2 \$ 207,299 Option 3 \$ 215,385 Option 4 \$ 223,470 Total Amount \$ 1,074,735
Agenda Item Number:	32
Council Approval Date:	11/03/2016

Thank you for your interest in doing business with the City of Austin. If you have any questions regarding this contract, please contact the person referenced under Department Contact Person.

Sincerely,

Sai Xoomsai Purcell  
Senior Buyer Specialist  
City of Austin  
Purchasing Office

## CONTRACT BETWEEN THE CITY OF AUSTIN

AND

Open Text Corporation

For

### Licenses, Software Maintenance and Support to the Enterprise Document and Image Management System

This Contract is made by and between the City of Austin ("City" or "Licensee"), a home-rule municipality incorporated by the State of Texas, and Open Text Inc. ("Contractor" or "Open Text" or "OT"), having offices at San Mateo, CA.

#### SECTION 1. GRANT OF AUTHORITY, SERVICES AND DUTIES

1.1 **Engagement of the Contractor.** Subject to the general supervision and control of the City and subject to the provisions of the Terms and Conditions contained herein, the Contractor is engaged to provide the services set forth in Section 2, Scope of Work.

1.2 **Responsibilities of the Contractor.** The Contractor shall provide all technical and professional expertise, knowledge, management, and other resources required for providing the commodities identified in Section 2. In the event that the need arises for the Contractor to provide deliverables beyond those stated in the Section 2, the Contractor and the City shall negotiate mutually agreeable terms and compensation for such.

1.3 **Responsibilities of the City.** The City's Contract Manager will be responsible for exercising general oversight of the Contractor's activities in delivering the commodities. Specifically, the Contract Manager will represent the City's interests in resolving day-to-day issues that may arise during the term of this Contract, shall participate regularly in conference calls or meetings for status reporting, shall promptly review any written reports submitted by the Contractor, and shall approve all invoices for payment, as appropriate. The City's Contract Manager shall give the Contractor timely feedback on the acceptability of progress.

1.4 **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Anna Poretski, Phone: (905) 762-6188, Email Address: [aporetsk@opentext.com](mailto:aporetsk@opentext.com). The City's Contract Manager for the engagement shall be Kamran Karimi, (512) 974-2877, Email Address: [Kamran.Karimi@austintexas.gov](mailto:Kamran.Karimi@austintexas.gov). The City's and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor will promptly notify the City Contract Manager and obtain approval for the replacement. Such approval shall not be unreasonably withheld.

#### SECTION 2. SCOPE OF WORK

2.1 **Contractor's Obligations.** The Contractor shall fully and timely provide all deliverables described herein and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations and Contractor's then-current Software Maintenance Program Handbook and End User License Agreement (available upon request, or as provided with license key deployment, or at [www.opentext.com/agreements](http://www.opentext.com/agreements)).

#### SECTION 3. COMPENSATION

3.1 **Contract Amount.** Contractor shall be paid an amount not to exceed \$ 229,368 or the initial term of the Contract with four 12-month extension options in an amount not to exceed \$ 199,213 or the first extension option, \$ 207,299 for the second extension option, \$ 215,385 for the third extension option, \$ 223,470 for the fourth extension option, for a total contract amount not to exceed \$ 1,074,735

#### 3.2 **Invoices.**

3.2.1 **Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice. Invoices received without all required information cannot be processed and will be returned to the Contractor. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. Invoices shall be emailed to the below address:

	City of Austin
Department	Communication Technology Management Department
Attn:	Accounts Payable
Email Address	CTMAPInvoices@austintexas.gov

3.2.2 Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

3.2.3 Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

**3.3 Payment.**

3.3.1 All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice, whichever is later.

**3.3.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**

3.3.3 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

3.3.4 Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic transfer of funds.

**SECTION 4. TERM AND TERMINATION**

4.1 **Term of Contract.** The Contract shall be in effect for an initial term of 12 months and may be extended thereafter for up to four additional 12-month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.

4.1.1 Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 calendar days unless mutually agreed on in writing).

4.2 **Right To Assurance.** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

4.3 **Default.** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under the "Right to Assurance paragraph herein, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by Contractor to the City.

4.4 **Termination For Cause.** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing

Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

4.5 **Termination Without Cause.** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

4.6 **Fraud.** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

## **SECTION 5. OTHER DELIVERABLES**

5.1 **Insurance:** The following insurance requirements apply.

### 5.1.1 **General Requirements.**

5.1.1.1 The Contractor shall at a minimum carry insurance in the types and amounts indicated herein for the duration of the Contract and during any warranty period.

5.1.1.2 The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to Contract execution and within fourteen (14) calendar days after written request from the City.

5.1.1.3 The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.

5.1.1.4 The Contractor shall not commence work until the required insurance is obtained and has been reviewed by City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

5.1.1.5 The City may request that the Contractor submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

5.1.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.

5.1.1.7 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

City of Austin  
Purchasing Office  
P. O. Box 1088  
Austin, Texas 78767

5.1.1.8 The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.

5.1.1.9 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

5.1.1.10 The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

5.1.1.11 The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.

5.1.1.12 The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

5.1.1.13 The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

5.1.1.14 The Contractor shall endeavor to provide the City thirty (30) calendar days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

5.1.2 **Specific Coverage Requirements.** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

5.1.2.1 **Commercial General Liability Insurance.** The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries). The policy shall contain the following provisions and endorsements.

5.1.2.1.1 Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

5.1.2.1.2 Contractor/Subcontracted Work.

5.1.2.1.3 Products/Completed Operations Liability for the duration of the warranty period.

5.1.2.1.4 Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage.

5.1.2.1.5 Thirty (30) calendar days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage.

5.1.2.1.6 The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.

5.1.2.2 **Worker's Compensation and Employers' Liability Insurance.** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee. The policy shall contain the following provisions and endorsements:

5.1.2.2.1 The Contractor's policy shall apply to the State of Texas.

5.1.2.2.2 Waiver of Subrogation, Form WC420304, or equivalent coverage.

5.1.2.2.3 Thirty (30) calendar days Notice of Cancellation, Form WC420601, or equivalent coverage.

## 5.2 **Equal Opportunity.**

5.2.1 **Equal Employment Opportunity.** No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

5.2.2 **Americans With Disabilities Act (ADA) Compliance.** No Contractor, or Contractor's agent, shall engage in any discriminatory practice against individuals with disabilities as defined in the ADA, including but not limited to: employment, accessibility to goods and services, reasonable accommodations, and effective communications.

5.3 **Interested Parties Disclosure.** As a condition to entering the Contract, the Business Entity constituting the Offeror must provide the following disclosure of Interested Parties to the City prior to the award of a contract with the City on Form 1295 "Certificate of Interested Parties" as prescribed by the Texas Ethics Commission for any contract award requiring council authorization. The Certificate of Interested Parties Form must be completed on the Texas Ethics Commission website, printed, and signed by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury. The City will submit the "Certificate of Interested Parties" to the Texas Ethics Commission within 30 days of receipt from the Offeror. Link to Texas Ethics Commission Form 1295 process and procedures below:

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

## **SECTION 6. WARRANTIES**

6.1 **Warranty - Services.** Contractor warrants to the City that Contractor will supply the Maintenance Services substantially in accordance with the provisions of the then current SMP Handbook and this Contract Contractor's entire liability, and City's sole remedy, for breach by Contractor of the foregoing warranty shall be limited to, at Contractor's option: (i) correcting such breach; or (ii) refunding a pro rata share to City of the Maintenance Fees received by Contractor for the Maintenance Year in which the breach occurred.

THE FOREGOING EXPRESS WARRANTY IS THE SOLE AND EXCLUSIVE WARRANTY PROVIDED BY CONTRACTOR TO CITY RELATING TO THE PROVISION OF MAINTENANCE SERVICES AND/OR THIS CONTRACT AND IS IN LIEU OF ALL OTHER WARRANTIES WHETHER EXPRESS OR IMPLIED. CONTRACTOR HEREBY DISCLAIMS, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL OTHER WARRANTIES AND CONDITIONS OF EVERY NATURE AND KIND, WHETHER EXPRESS OR IMPLIED BY STATUTE, COMMON LAW, USAGE OF TRADE, COURSE OF DEALING, OR OTHERWISE INCLUDING WITHOUT LIMITATION, ALL WARRANTIES AND/OR CONDITIONS OF QUALITY, MERCHANTABILITY, OPERATION, CAPACITY, ADEQUACY, AND/OR FITNESS FOR A PARTICULAR PURPOSE, HOWSOEVER ARISING. ANY ORAL STATEMENT, REPRESENTATION, OR IMPLICATION BY ANY PERSON CONTRADICTING THE FOREGOING IS UNAUTHORIZED AND SHALL NOT BE BINDING ON CONTRACTOR IN ANY MANNER.

CONTRACTOR DOES NOT WARRANT THAT THE LICENSED SOFTWARE IS, OR WILL BE, ERROR FREE, THAT ALL ERRORS WILL BE CORRECTED, THAT THE LICENSED SOFTWARE WILL RUN, OR OPERATE, ON ALL HARDWARE, OR WILL IDENTIFY ANY OR ALL VIRUSES.

ALL LICENSED SOFTWARE, MEDIA AND/OR DOCUMENTATION PROVIDED BY CONTRACTOR TO CITY UNDER THIS CONTRACT ARE PROVIDED BY CONTRACTOR ON AN "AS IS" BASIS.

## **SECTION 7. MISCELLANEOUS**

**7.1 Compliance with Health, Safety, and Environmental Regulations.** The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

**7.2 Audits and Records.**

7.2.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

**7.3 Indemnity.**

7.3.1 Definitions:

7.3.1.1 "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:

7.3.1.1.1 damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or;

7.3.1.1.2 death, or bodily injury to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),

7.3.1.2 "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

7.3.2 **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CONTRACTOR), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

7.4 **Claims.** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse effect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2<sup>nd</sup> Street, 4<sup>th</sup> Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

7.5 **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:  
City of Austin, Purchasing Office  
ATTN: Sai Purcell, Senior Buyer Specialist  
P O Box 1088  
Austin, TX 78767

To the Contractor:  
Open Text Corporation  
ATTN: Anna Poretski, Account Development  
100 Tri-State Pkwy 3<sup>rd</sup> FL  
Lincolnshire, IL 60069

**7.6 Confidentiality.** In order for Contractor to provide the services to the City, either party may require access to certain of the other party's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which either the City, Contractor or its or their licensors consider confidential) (collectively, "Confidential Information"). The parties acknowledge and agree that the Confidential Information is the valuable property of the other party and/or that party's licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure that party and/or its licensors. Both parties (including their employees, subcontractors, agents, or representatives) agree that they will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the other party or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the party required to make such disclosure promptly notifies the other party before disclosing such information so as to permit the other party reasonable time to seek an appropriate protective order. The parties agree to use protective measures no less stringent than they use within their own business to protect their own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

**7.7 Advertising.** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

**7.8 No Contingent Fees.** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

**7.9 Gratuities.** The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

**7.10 Prohibition Against Personal Interest in Contracts.** No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.

**7.11 Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.

**7.12 Assignment-Delegation.** The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.

**7.13 Waiver.** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

**7.14 Modifications.** The Contract can be modified or amended only in writing signed by both parties. No pre-printed or similar terms on any Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

**7.15 Interpretation.** The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

**7.16 Dispute Resolution.**

**7.16.1** If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

**7.16.2** If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

**7.17 Minority And Women Owned Business Enterprise (MBE/WBE) Procurement Program.**

**7.17.1** All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

**7.17.2** The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's**

**MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

**7.17.3** If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Contractor must also make a Good Faith Effort to use available MBE and WBE firms. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract; using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

**7.18 Subcontractors.**

**7.18.1** If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan, the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

**7.18.2** Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:

**7.18.2.1** require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract.

**7.18.2.2** prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

**7.18.2.3** require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

**7.18.2.4** require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

**7.18.2.5** require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

**7.18.3** The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.

**7.18.4** The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

**7.19 Jurisdiction And Venue.** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm.

Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

**7.20 Invalidity.** The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

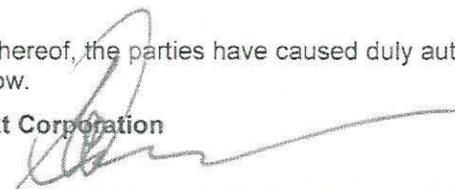
**7.21 Non-Suspension or Debarment Certification.** The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

**7.22 Incorporation of Documents.** Section 0100, Standard Purchase Definitions, is hereby incorporated into this Contract by reference, with the same force and effect as if they were incorporated in full text. The full text versions of this Section are available, on the Internet at the following online address: [https://assets.austintexas.gov/purchase/downloads/standard\\_purchase\\_definitions.pdf](https://assets.austintexas.gov/purchase/downloads/standard_purchase_definitions.pdf)

**7.23 Complete and Entire Agreement.** Contractor and City acknowledge that they have each read and understood all of the provisions of this Contract and agree to be legally bound by its provisions. The parties further agree that this Contract, including Exhibits "A", "B", and "C" hereto, is the complete and exclusive statement of the Contract between Contractor and City, which supersedes and merges all prior proposals, understandings and all other agreements, oral or written, between the parties, including, without limitation, Contract between the City of Austin and Open Text Corporation dated December 20, 2011, or between City and any third party relating to this Contract. In the event of a conflict or inconsistency between the terms of this Contract and the attached Exhibits, the terms of the Contract shall prevail to the extent of such conflict or inconsistency. This Contract may not be amended, modified or altered except by written instrument duly executed by Contractor and City.

In witness whereof, the parties have caused duly authorized representatives to execute this Contract on the dates set forth below.

**Open Text Corporation**

By:   
Signature

Name: SERGE SAVCHENKO  
Printed Name

Title: VP, WW PORTFOLIO SALES

Date: DEC. 28, 2016

**CITY OF AUSTIN**

By:   
Signature

Name: Sai Russell  
Printed Name

Title: Senior Buyer Specialist

Date: 12/28/16

**List of Exhibits**

- Exhibit A Open Text Quote
- Exhibit B Non Discrimination Certification, Section 0800
- Exhibit C Non-Suspension or Debarment Certification (If it came with the Proposal)



**EXHIBIT A**

**OPEN TEXT QUOTE**

Quote - Renewal

QTY	PRODUCT		AMOUNT
7	eDOCS DM Standard Named User Client 04/01/17 to 12/31/17	S-DM000934101E	
0	eDOCS RM Standard Named User Client 06/01/17 to 12/31/17	S-DM000962101E	
1	eDOCS RM Standard Named User Client 06/01/17 to 12/31/17	S-DM000962101E	
0	eDOCS DM Standard Named User Client 06/01/17 to 12/31/17	S-DM000934101E	
1	eDOCS DM Standard Named User Client 06/01/17 to 12/31/17	S-DM000934101E	
10	eDOCS DM Standard Named User Client 07/01/17 to 12/31/17	S-DM000934101E	
10	eDOCS RM Standard Named User Client 07/01/17 to 12/31/17	S-DM000962101E	
10	eDOCS DM Standard Named User Client 08/01/17 to 12/31/17	S-DM000934101E	
10	eDOCS RM Standard Named User Client 08/01/17 to 12/31/17	S-DM000962101E	
4	eDOCS DM Anonymous External Users	S-DM000958101E	
181	eDOCS DM Standard Named User Client	S-DM000934101E	
11	eDOCS RM Admin Tool	S-DM000957101E	
1	eDOCS DM Protect Anytime	S-DM-24X7RESTORE	
161	eDOCS RM Standard Named User Client	S-DM000962101E	
1	BI Web Starter NA SEnc 32Bit ML	S-BI32I247900M	
20	eDOCS DM Imaging Imaging Client	S-DM000955101E	
15	eDOCS DM Workflow Client	S-DM000961101E	
5	Lic Ent Webtop Clnt SEnc NT	S-EPNTI314101E	
1	Business Intelligence Query User 32Bit (English)	S-BI32I202101E	

QTY	PRODUCT		AMOUNT
1	Loyal to the Core Program  <i>**Must renew at full value prior to expiration of the current contract. "OpenText Loyal to the Core" program free subscription subject to OpenText Core terms (available upon request or at <a href="http://core.opentext.com/terms">http://core.opentext.com/terms</a> under the headings of Privacy Policy, Terms and Conditions, and Acceptable use). In the event you do not wish to participate in this free subscription, please indicate such in writing upon renewal.</i>	H-OTCBUSR	
15	LIC BI Ad Hoc User Named 32Bit	S-BI32I2681010	
1	Lic BI Server SEnc NT Eng	S-BINTI260101E	
1	Business Intelligence Query Admin 32Bit (English)	S-BI32I201101E	

Send Payments To:  
Open Text Inc.  
c/o J.P. Morgan Lockbox  
24885 Network Place  
Chicago, IL  
60673-1246  
UNITED STATES  
Registration: 46-0525483  
GST/HST: 80361 5467 RT0001  
Your VAT No: 0

Banking Information:  
J.P. Morgan Bank  
10 South Dearborn Street  
Chicago, IL 60603  
USA  
Currency: USD  
Bank Acct #: 802909309  
SWIFT: CHASUS33  
Wires: ABA 021000021  
ACH: ABA 071000013

Subtotal	146,108.10 USD
Tax	0.00 USD
Total	146,108.10 USD

Taxes are subject to change

## Quote – New Licenses

Item	SKU / Product Name	New Quantity	Unit of Measure / License Model	Selling Price Per Unit	Net Price	Maintenance Net Price
1	S-DM000934101E eDOCS DM Standard Named User Client ** <small>List Price per Unit: 499.00</small>	30	Standard Named Users	499.00	14,970.00	3,253.84
2	S-DM000962101E eDOCS RM Standard Named User Client ** <small>List Price per Unit: 130.00</small>	30	Standard Named Users	96.79	2,903.78	652.03
3	S-DM000967101E eDOCS RM Admin Tool ** <small>List Price per Unit: 9,500.00</small>	2	Standard Named Users	9,500.00	19,000.00	4,180.00
<b>Sub-Total</b>				USD	36,933.76	
<b>Sub-Total Maintenance &amp; Support Fees</b>				USD		8,085.67
<b>Grand Total (Before Taxes)</b>				USD		<b>45,019.43</b>

**EXHIBIT B**  
**City of Austin, Texas**  
**EQUAL EMPLOYMENT/FAIR HOUSING OFFICE**  
**NON-DISCRIMINATION CERTIFICATION**

**City of Austin, Texas**  
**Human Rights Commission**

To: City of Austin, Texas, ("OWNER")

I hereby certify that our firm conforms to the Code of the City of Austin, Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

**Sec. 4-2 Discriminatory Employment Practices Prohibited.** As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations and agrees:

- (B) (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with OWNER's Human Rights Commission in connection with any investigation or conciliation effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Nondiscrimination Policy set forth below.

**City of Austin**  
**Minimum Standard Non-Discrimination in Employment Policy:**

*As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.*

*The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.*

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE A COPY TO THE CITY OF THE CONTRACTOR'S NON-DISCRIMINATION POLICY ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION POLICY, AS SET FORTH HEREIN, OR THIS NON-DISCRIMINATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES (THE FORM OF WHICH HAS BEEN APPROVED BY THE CITY'S EQUAL EMPLOYMENT/FAIR HOUSING OFFICE), WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

**Sanctions:**

Our firm understands that non-compliance with Chapter 5-4 may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4.

**Term:**

The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payments, the Contractor's Non-Discrimination Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 28 day of DEC., 2016

CONTRACTOR  
Authorized  
Signature

  
SERGE SAVCHENKO  
VP, WW PORTFOLIO SALES

Title

**EXHIBIT C**

**City of Austin, Texas  
Section 0805  
NON-SUSPENSION OR DEBARMENT CERTIFICATION**

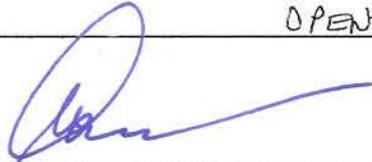
The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of \$25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Contractor's Name:

OPENTEXT

Signature of Officer or  
Authorized  
Representative:



Date:

DEC. 28, 2016

Printed Name:

JERGE SAVCHENKO

Title

VP, WW PORTFOLIO SALES



# City of Austin FSD Purchasing Office

## Certificate of Exemption

DATE: 08/25/2016

DEPT: CTM

TO: Purchasing Officer or Designee

FROM: Kamran Karimi

BUYER: Sai Purcell

PHONE: (512) 974-2877

Chapter 252 of the Local Government Code requires that municipalities comply with the procedures established for competitive sealed bids or proposals before entering into a contract requiring an expenditure of \$50,000 or more, unless the expenditure falls within an exemption listed in Section 252.022.

Senate Bill 7 amended Chapter 252 of the Local Government Code to exempt from the requirements of such Chapter expenditures made by a municipally owned electric utility for any purchases made by the municipally owned electric utility in accordance with procurement procedures adopted by a resolution of its governing body that sets out the public purpose to be achieved by those procedures. The Austin City Council has adopted Resolution No. 040610-02 to establish circumstances which could give rise to a finding of critical business need for Austin Energy.

This Certification of Exemption is executed and filed with the Purchasing Office as follows:

1. The undersigned is authorized to submit this certification.
2. The undersigned certifies that the following exemption is applicable to this purchase. (Please check which exemption you are certifying)

a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality

a procurement necessary to preserve or protect the public health or safety of municipality's residents

a procurement necessary because of unforeseen damage to public machinery, equipment, or other property

a procurement for personal, professional, or planning services

a procurement for work that is performed and paid for by the day as the work progresses

a purchase of land or right-of-way

a procurement of items available from only one source, including: items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; gas, water, and other utility services; captive replacement parts or components for

equipment; books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits

a purchase of rare books, papers, and other library materials for a public library

paving, drainage, street widening and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements

a public improvement project, already in progress, authorized by voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes as authorized by the voters

- a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212
- personal property sold: at an auction by a state licensed auctioneer; at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391
- services performed by blind or severely disabled persons
- goods purchased by a municipality for subsequent retail sale by the municipality
- electricity
- advertising, other than legal notices
- Critical Business Need (Austin Energy Only)

3. The following facts as detailed below support an exemption according to Section 252.022 of the Local Government Code for this purchase. Please verify the steps taken to confirm these facts. If you are citing the following exemptions, please provide the additional information requested below. A more detailed explanation of these exemptions is attached.

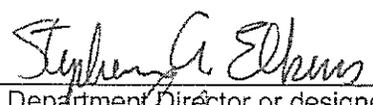
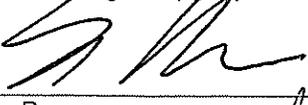
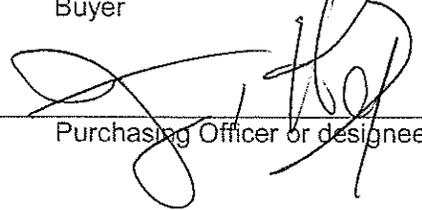
- **Preserve and Protect the Public Health and Safety** – Describe how this purchase will preserve and protect the public safety of residents.
- **Sole Source** – Describe what patents, copyrights, secret processes, or natural monopolies exist. Attach a letter from vendor supporting the sole source. The letter must be on company letterhead and be signed by an authorized person in company management.
- **Personal Services** – Describe those services to be performed personally by the individual contracted to perform them.
- **Professional Services** – Describe what mainly mental or intellectual rather than physical or manual and/or disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence are required to perform this service.
- **Planning Services** – Describe the services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan, or regional land areas.
- **Critical Business Need** – Describe the procurement necessary to protect the competitive interests or position of Austin Energy.

\$220,334.10 for 12-months with four 12-month options renewal options (\$188,108.05, \$194,108.05, \$200,108.05, and \$206,108.05 for a total contract amount not to exceed \$1,008,780.30) with Open Text Corporation for the eDOCS software support and maintenance. eDOCS is the Electronic Document Imaging Management System (EDIMS) that is used by the citywide. Open Text Corporation 38 Leek Crescent, L4B 4N8, Richmond Hill Ontario, N2L 0A1, Canada, Gary Gennarelli gennare@opentext.com; 905-762-6001

4. Please attach any documentation that supports this exemption.
5. Please provide any evaluation conducted to support the recommendation. Include the efforts taken to ensure the selected vendor is responsible and will provide the best value to the City (Ex: evaluation of other firms, knowledge of market, etc).

Purchase of support and maintenance, professional services, and additional licenses and support with Open Text Corporation. Open Text is the sole/exclusive vendor that delivers maintenance and support for the eDOCS Document Management software (EDIMS).

6. Because the above facts and documentation support the requested exemption, the City of Austin intends to contract with Open Text Corporation which will cost approximately \$ 1,008,780.30 (Provide estimate and/or breakdown of cost).

Recommended Certification		26 AUG 2016	
	Originator	Date	
Approved Certification		Aug 30, 2016	
	Department Director or designee	Date	
		9/9/16	
	Assistant City Manager / General Manager or designee (if applicable)	Date	
Purchasing Review (if applicable)		9/21/16	
	Buyer	Date	Manager Initials
Exemption Authorized (if applicable)		9/21/16	
	Purchasing Officer or designee	Date	

02/26/2013



August 29,2013

Open Text Corporation  
38 Leek Crescent, L4B- 4N8  
Richmond Hill ON, N2L 0A1, Canada  
www.opentext.com ☎ info@opentext.com  
TEL: 905-762-6001 ☎ FAX: 905-762-6404

**Re: Sole Source Vendor for Maintenance and Support**

Dear Open Text Customer:

Thank you for your support of Open Text and its family of Document Management products. Open Text is committed to your success. We are continually striving to improve and expand the functionality of our products to help you complete your mission-critical assignments.

Participation in the Open Text Software Maintenance Program is a significant factor in the ongoing success of your application of the eDOCS Document Management family of products. **Open Text is the sole/exclusive vendor that delivers Maintenance and Support, as described in our Software Maintenance Program Handbook.**

The benefits of your investment in the Software Maintenance and Support Program include:

- ***Unlimited calls to our Support Center***
- ***No-charge upgrades to the latest versions of your supported products***
- ***Software enhancements, modifications, and fixes***
- ***Online access to the Open Text Knowledge Center Extranet***
- ***Enhancement request process***

Keeping your software Support account up to date is the most cost-effective way to ensure the continued success of your Open Text Solution.

Sincerely,

*Atkinns Tu*

Manager, Maintenance Renewals